

CHAPTER 50 PROCEDURES

[ORD 4224; September 2002]

50.05. Initiation of an Application

1. An application subject to a Type 1, Type 2, or Type 3 procedure may be filed by:
 - A. The owner or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser.
 - B. The City Council, Mayor, or Director, as to property owned by the City, including public right of way and easements, or which the City intends to acquire.
 - C. Public agencies that own the property or have passed a resolution declaring that they intend to exercise their statutory authority to condemn the property.
2. A Text Amendment application subject to a Type 4 procedure may be filed by an interested person, City Council, Mayor, or Director.
3. A Zone Change application subject to a Type 1, Type 3, or Type 4 procedure may be filed by the City Council, Mayor, or Director. [ORD 4265; September 2003]

50.10. Withdrawal of an Application

1. An applicant may withdraw an application before the application is deemed complete.
2. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision if the Director determines that:
 - A. The owners or contract purchasers or the interest holders in the property consent in writing to withdraw the application.
 - B. No violation of this Code has been identified on the subject property and processing of the application would not correct the identified violation.
3. The Director may withdraw any City initiated application at any time.
4. If an application is withdrawn after public notice has been mailed, the Director shall send written notice stating the application has been withdrawn to all persons to whom notice of the application or hearing has been sent. This provision shall not apply to legislative applications that require Citywide mailed notice.
5. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
 - A. Application withdrawn prior to being deemed complete: 85%.
 - B. Application withdrawn prior to publication or distribution of public notice: 50%.
 - C. Application withdrawn after publication or distribution of public notice: 0%.
6. For withdrawal of appeals, refer to Section 50.89 of this Code.

50.15. Classification of Applications

1. An application shall be subject to the procedure type specified in the Code, if any. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.
 - A. A Type 1 procedure typically involves an application that is subject to non-discretionary criteria or criteria that require the exercise of professional judgment only about technical issues.
 - B. A Type 2 procedure typically involves an application that is subject to criteria that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest.
 - C. A Type 3 procedure typically involves an application that is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.
 - D. A Type 4 procedure typically involves the adoption, implementation or amendment of policy or law by ordinance. The subject of a Type 4 procedure generally applies to a relatively large geographic area containing many property owners.

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2. When an applicant submits more than one complete application for a given proposal, where each application addresses a separate set of code requirements and the applications are subject to different procedure types, all of the applications are subject to the procedure type of the application which requires the broadest notice and opportunity to participate. For example, a Type 2 application will be consolidated with a Type 3 application for the same proposal on the same site, in which case, the Type 2 application will be reviewed by the decision making authority of the Type 3 application. The decision making authority's action on the Type 2 application will be based on the approval criteria governing the Type 2 application. An appeal of the decision will be processed according to the provisions of Section 50.70 of this Code.

In the event that the completed applications involve applications where the decision making authority is a combination of either the Director, Board of Design Review, or Planning Commission, the decision making authority will be the Planning Commission.

Notwithstanding any other provision and at no cost to the applicant, the Director may choose to combine multiple applications for the same development as a way to increase the efficiency of development review. [ORD 4265; September 2003]

3. The Director shall determine the appropriate decision making authority between the Planning Commission and the Board of Design Review for Adjustment, Text Amendment, Tree Plan, and Variance applications. Such determination will be based upon the characteristics of the proposal and the associated application, if any. The determination of the Director may be appealed directly to the City Council pursuant to Section 50.70 of this Code.
4. Notwithstanding the Director's determination of procedure type, Type 1, 2, or 3 but not Type 4, an applicant may choose to have an application at the time of submittal be subject to a procedure type requiring broader notice and opportunity to participate provided the applicant pays the appropriate fee for the selected procedure type and the Director determines that statutory timelines for reaching a final decision can be satisfied.

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5. Notwithstanding any other provision, and, at no additional cost to the applicant, the Director may choose to process a Type 2 application under the Type 3 procedure in order to provide greater notice and opportunity to participate than would otherwise be required, or in order to comply with the time requirements for reviewing development applications pursuant to ORS 227.178. The decision making authority's action on the Type 2 application will be based on the approval criteria governing the Type 2 application.

50.20. Pre-Application Conference

1. With the exception of an application filed by the City, a pre-application conference shall be required for all proposals which require Type 2, Type 3, or Type 4 applications. A pre-application conference is optional for an applicant for proposals which require only Type 1 applications.
2. The purpose of the pre-application conference is to acquaint the City and outside agencies and service providers with a potential application, and to acquaint the applicant with the requirements of this Code, the Comprehensive Plan, and other relevant criteria and procedures. It is not an exhaustive review of all potential issues, and the conference does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated in the pre-application conference.
3. The City will schedule and conduct the pre-application conference within twenty-one (21) calendar days of receipt of a request for a pre-application conference. Notwithstanding application completeness requirements, if a required pre-application conference is not conducted within the twenty-one day time period due to no fault of the applicant, the applicant may elect to proceed with an application without a pre-application conference.
4. To initiate the pre-application conference, an applicant shall submit a completed form provided by the Director for that purpose, the relevant fee, and copies of all information required by the relevant Section of the Code or specified in writing by the Director.

The Director shall coordinate the involvement of City staff responsible for planning, development review, roads, drainage, and other subjects, as appropriate, in the pre-application review process. The Director shall also invite outside agencies and service providers, as appropriate, to participate in the pre-application conference.

5. Within approximately fourteen (14) calendar days after a pre-application conference, the Director shall mail to the applicant, or the applicant's agent, a written summary of the conference. The Director shall mail a copy of the summary to any other person who requests one and pays the City's mailing and photocopying costs. The purpose of the written summary is to provide a preliminary assessment of a proposal and is not to be construed as a final recommendation or decision by the City or by any other outside agency or service provider on the merits of the proposal. The pre-application conference written summary shall:

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- A. Summarize the contemplated use and relevant characteristics of the proposal.
 - B. Identify necessary application submittal requirements.
 - C. Identify the relevant approval criteria and development regulations, with a disclaimer that the approval criteria and development regulations in effect at the time an application is received will control and that such approval criteria and development regulations may change.
 - D. Identify specific additional information that is needed to respond to the relevant criteria and development regulations or is recommended to respond to other issues.
 - E. Identify applicable application fees, with a disclaimer that fees are subject to change and that the fees in effect at the time a complete application is received will control.
 - F. Identify information that may be relevant to the proposal and that may be in the possession of the City or other agencies of which the City is aware, such as:
 - 1. Comprehensive Plan map designation and zoning on and adjacent to the property, which is the subject of the pre-application conference.
 - 2. Physical development limitations, such as steep or unstable slopes, wetlands, water bodies, or sensitive resource areas that exist on and in the vicinity of the subject property.
 - 3. Other applications of which the City is aware that have been approved or are pending for the property and in the vicinity of the property that may affect or be affected by a proposal.
6. If a complete application relating to a proposed development action that was the subject of a pre-application conference has not been submitted within one year of the conference, the applicant shall schedule a current pre-application conference.

50.25. Application Completeness

1. A complete application is one which contains the information required by the Director to address the relevant criteria, development requirements, and procedures of this Code. Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Zoning Map Amendment applications processed by the City shall be determined to be complete upon submittal of a valid annexation petition or executed annexation agreement. All other complete application shall consist of the requisite number of copies of the following: [ORD 4265; September 2003]
 - A. A completed original application form provided by the Director and application checklist provided by the Director, signed by:
 1. The applicant.
 2. If the applicant is not the owner, the owner of the property, or the authorized agent of the property owner. If an authorized agent, a written statement made by the owner of the property shall be submitted stating that the agent is authorized to sign on the owner's behalf.
 3. If the applicant is exercising its statutory authority to condemn property, the representative of the public agency accompanied by written documentation of such condemnation or intent to condemn the property.
 4. Property owner signatures are not required for City initiated Type 4 Text Amendment applications and City initiated Type 1, Type 3, and Type 4 Zoning Map Amendments. [ORD 4265; September 2003]
 - B. A written statement, supported by substantial evidence, that identifies the criteria and development regulations considered relevant to the application, states the facts alleged to show that the application complies with applicable criteria and development regulations, and explains why the application should be approved based on the criteria and development regulations and facts set forth in the application. In addition to addressing applicable criteria and development regulations relevant to the application type, the written statement shall address all the technical criteria specified in Section 40.03 (Facilities Review Committee) of the Code. [ORD 4265; September 2003]

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- C. The Director may require an applicant to submit information in addition to that required on the form to aid in deciding whether an application satisfies applicable criteria and development regulations. The Director shall attempt to identify additional necessary information in the pre-application conference.
 - D. The information required by Section 50.30.4 regarding Neighborhood Meeting requirements, if applicable.
 - E. For a Type 2, Type 3, or Type 4 application, a copy of the pre-application conference summary.
 - F. Documentation from Clean Water Services stating that water quality will not be adversely affected by the proposal.
 - G. The applicable fee in effect at the date of submittal.
- 2. To enable the Director to determine whether an application is complete, an applicant shall submit the requisite number of copies, as determined by the Director.
 - 3. The Director may defer collection of application fees during review of the application for completeness; provided, an application shall not be deemed complete until the City has received all required fees.
 - 4. The Director shall advise the applicant in writing whether an application is complete by sending a completeness notice by first class mail within thirty (30) calendar days after the City receives an application. To comply with this completeness notice requirement, the completeness notice must be postmarked by the thirtieth day.
 - A. If an application is incomplete, the completeness notice shall list what information is missing.
 - B. The completeness notice shall include a form, designed to be returned to the Director by the applicant indicating whether or not the applicant intends to amend or supplement the application, and instructing the applicant to mail, facsimile, or deliver the form or written equivalent to the Director so that the Director receives it before the thirty (30) calendar day completeness review period expires.

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5. Incompleteness shall be based solely on failure to pay required fees, failure to address the relevant criteria or development regulations, or failure to supply required information and shall not be based on differences of opinion as to quality or accuracy. Determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.
6. The Director may waive application requirements that in the Director's opinion are not necessary to show an application complies with relevant criteria and development regulations and may modify application requirements based on the nature of the proposed application, development, site, or other factors. The City shall specifically identify any such waiver in the pre-application conference written summary or other written correspondence.
7. The application will be deemed complete for the purpose of this section upon receipt by the Community Development Department of:
 - a. All the missing information;
 - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - c. Written notice from the applicant that none of the missing information will be provided.

[ORD 4282; January 2004]

8. Pursuant to ORS 227.178, the City will reach a final decision on an application within 120 calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to extend the 120 calendar day time line pursuant to subsection 9 or unless State law provides otherwise. [ORD 4282; January 2004]
9. The 120 calendar day time line specified in Section 50.25.8 may be extended at the written request of the applicant. The total of all extensions may not to exceed 240 calendar days from the date the application was deemed complete. [ORD 4282; January 2004]

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10. The applicant may amend the application up to and including fourteen (14) calendar days after the application has been deemed complete. Amendments to an application submitted more than fourteen (14) calendar days after the application is deemed complete may be determined by the Director to be so substantial that the application should be treated as having been refiled. In such a case, the Director shall provide the applicant with the following options: provide the City with a waiver of the 120-day timeframe set forth in ORS 227.178 of a minimum of fourteen (14) calendar days from the date the amendment was submitted; treat the application as having been refiled as of the date the amendment was submitted; or, decide the application on the basis of the applicant's materials without the amendment.
11. Pursuant to Section 50.25.3, an application will not be complete until the required fee has been received by the City. For any application which has been on file with the City for more than 180 calendar days and the applicant has not paid the required fee, the application will be deemed withdrawn.

50.30. Neighborhood Review Meeting

1. The purpose of the Neighborhood Review Meeting is to allow neighbors, representatives from the Neighborhood Association Committee (hereinafter referred to as NAC), and interested persons an opportunity to become familiar with the proposal and to identify any associated issues. The Neighborhood Review Meeting is intended to assist in producing applications that are responsive to neighborhood concerns, and to reduce the likelihood of delays and appeals. The City expects an applicant to take into consideration the reasonable concerns and recommendations of the neighborhood when preparing an application. The City expects the neighbors and NAC to work with the applicant to provide reasonable concerns and recommendations.
2. Prior to submittal of an application subject to a Type 3 procedure, the applicant shall provide an opportunity to meet with neighboring property owners, residents and businesses (hereinafter collectively referred to as “neighbors”) as well as representatives from the NAC within whose boundaries the site is located or within the notice radius to review the proposal. The applicant shall not be required to hold more than one Neighborhood Review Meeting provided such meeting is held within six-months prior to submitting an application for one specific site. This requirement does not apply to applications required by Design Review Three threshold number 7 (Section 40.20.15.3.A.7) or applications for Quasi-Judicial Zoning Map Amendment (Section 40.97.15.1) or Discretionary Annexation Related Zoning Map Amendment (Section 40.97.15.4). [ORD 4332; November 2004]
3. Procedures.
 - A. Except as otherwise provided in this section, the applicant shall select the meeting time and place according to the preference indicated by the relevant NAC. Preference should be given to a regularly scheduled meeting time of the NAC in which the project is located. The starting time selected shall be limited to a weekday evening after 6:00 p.m. or a weekend at any reasonable time and shall not occur on a National holiday. The meeting shall be held at a location open to the public and in compliance with the Americans with Disabilities Act within the boundaries of the NAC or at a similar location within the City of Beaverton. A sign at least 22” x 28” in size with minimum 2” lettering shall be placed at the main entrance of the building where the meeting will take place at least one hour prior to the meeting. Such sign will announce the meeting, that the meeting

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is open to the public and that interested persons are invited to attend. This sign shall be removed upon conclusion of the meeting by the applicant.

- B. The applicant shall send by regular mail a written notice announcing the Neighborhood Review Meeting to: the Director, property owners within 500 feet of the property involved in the anticipated application and to representatives of all NACs whose boundaries are within 500 feet of the subject property. The notice shall include the date, time and location of the meeting and briefly discuss the nature and location of the proposal. The notice shall be mailed not less than 20 calendar days prior to the meeting date. The Director shall maintain on file in the Community Development Department, current addresses of NAC Officers and/or representatives and related NAC information, including regularly scheduled or monthly meeting dates, times and locations.

The mailing list shall be based on the most recent property tax assessment rolls of the Washington County Department of Assessment and Taxation. At the request of the applicant, and upon payment of the applicable fee, the City will provide the required mailing list.

- C. Not less than 20 calendar days prior to the Neighborhood Review Meeting, the applicant shall post a notice on the property which is subject of the proposed application. The notice shall be posted within 50 feet of an adjoining public right-of-way in a manner that can be read from the right-of-way. The notice shall state that the site may be subject to a proposed development and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the Neighborhood Review Meeting. The applicant may purchase a second sign from the City or create a sign to post at the Neighborhood Review Meeting location. [ORD 4312; June 2004]

Standard signs are available from the City upon payment of a fee. The City will not be responsible for posting of any signs.

50.30.3.

- D. At the Neighborhood Review Meeting, the applicant shall describe the proposed application to persons in attendance. The attendees may identify any issues that they believe should be addressed in the proposed application and recommend that those issues be submitted for City consideration and analysis.

At the request of the applicant and upon payment of a fee, the City will provide a facilitator for the Neighborhood Review Meeting.

- E. At the Neighborhood Review Meeting, the applicant shall take notes of the discussion on the proposed application. After the meeting and before submitting an application to the City, the applicant shall send a copy of the meeting notes to the Chairperson of the NAC in which the project is to be located by certified mail.

- 4. To comply with this section, an applicant shall submit the following information with the application:

- A. A copy of the notice sent to surrounding property owners and the NAC Representatives as described in Section 50.30.3.B.
- B. A copy of the mailing list used to send out meeting notices as described in Section 50.30.3.B.
- C. A written statement containing the information posted on the property as described in Section 50.30.3.C.
- D. An affidavit of mailing and posting notices as described in Sections 50.30.3.A through C.
- E. Copies of written materials and 8.5" x 11" size plans presented at the Neighborhood Review Meeting.
- F. Notes of the meeting, including the meeting date, time, and location, the name and address of those attending, and a summary of oral and written comments received.
- G. A certified mail receipt indicating mailing of the meeting notes to the Chairperson of the NAC.

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- H. If responses to the meeting notice were not received by the applicant and no one attended the Neighborhood Review Meeting or persons in attendance made no comments, the applicant shall submit evidence as indicated above, with the notes reflecting the absence of comment, attendance, or both.
- 5. Failure of a property owner to receive notice shall not invalidate the Neighborhood Review Meeting proceedings.

